

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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| In re: | : | |
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| BERNARD L. MADOFF INVESTMENT | : | SIPA LIQUIDATION |
| SECURITIES LLC, | : | |
| | : | No. 08-01789 (SMB) |
| Debtor. | : | |
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| IRVING H. PICARD, Trustee for the Liquidation | : | |
| of Bernard L. Madoff Investment Securities LLC, | : | |
| | : | |
| Plaintiff, | : | |
| v. | : | Adv. Proc. No. 09-01182 (SMB) |
| | : | |
| J. EZRA MERKIN, GABRIEL CAPITAL, L.P., | : | |
| ARIEL FUND LTD., ASCOT PARTNERS, L.P., | : | |
| ASCOT FUND LTD., GABRIEL CAPITAL | : | |
| CORPORATION, | : | |
| | : | |
| Defendants. | : | |
| | : | |
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**NOTICE OF MOTION *IN LIMINE* BY DEFENDANTS TO EXCLUDE THE
TESTIMONY, REPORTS, AND DECLARATION OF STEVE POMERANTZ**

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Evidence 702, made applicable to this proceeding by Rule 9017 of the Federal Rules of Bankruptcy Procedure, and upon the accompanying Declaration of Daphne T. Ha, dated April 7, 2017, and all attached exhibits, and the accompanying Memorandum of Law, Defendants J. Ezra Merkin, Gabriel Capital Corporation, Ascot Partners, L.P., and Ascot Fund Limited will move before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge for the Southern District of New York, at the United States Bankruptcy Courthouse, One Bowling Green, New York, New York, 10004-1408, at a date and time to be determined by the Court, for an Order excluding the reports,

declaration, and proposed testimony of Steve Pomerantz, and for such other relief as the Court deems just and proper.

NOTICE IS FURTHER GIVEN that the Trustee's response to this Motion, if any, shall be filed with the Bankruptcy Court and served on counsel for Defendants no later than May 10, 2017.

DECHERT LLP

New York, New York
April 7, 2017

By: /s/ Neil A. Steiner
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